

(b) have such powers exercisable by officers or employees of the Board under this Act as the Board may confer upon them; and

(c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the Board for the management and collection of the octroi, terminal tax or toll, as the case may be:

Provided that no article distrained may be sold except under the orders of the Chief Executive Officer.

### Appeals

93. *Appeals against assessment.*—(1) An appeal against the assessment or levy of, or against the refusal to refund, any tax under this Act shall lie to the District Court.

(2) If the District Court, on the hearing of an appeal under this section, entertains reasonable doubt on any question as to the liability to, or the principle of assessment of, a tax, the court may, either on its own motion or on the application of the appellant, draw up statement of the facts of the case and the point on which doubt is entertained, and refer the statement with its opinion on the point for the decision of the High Court.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in order XLVI of the First Schedule to the code of Civil Procedure, 1908 (5 of 1908).

*Explanation.*—For the purposes of this section and sections 94, 95, 96, 97 and 102 "District Court", in relation to a cantonment, means the Principal Civil Court of original jurisdiction having jurisdiction over the area in which that cantonment is situated, and includes such other Civil Court having jurisdiction over that area as the Central Government may, by notification in the Official Gazette, specify in this behalf, in consultation with the High Court having jurisdiction over that area.

94. *Costs of appeal.*—In every appeal the costs shall be in the discretion of the District Court hearing the appeal.

95. *Recovery of costs from Board.*—(1) If the Board fails to pay any cost awarded to an appellant within ten days after the date of the order for payment thereof, the District Court awarding the costs may order the person having the custody of the balance of the cantonment fund to pay the amount.

Where the appellant fails to pay any costs awarded to the Board within ten days after the date of the order for payment thereof, the same shall be recoverable by the Board in the same manner as moneys recoverable by the Board under section 324.

96. *Conditions of right to appeal.*—No appeal shall be heard or determined under this Chapter unless—

(a) the appeal is, in the case of a tax assessed on the annual rateable value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 77 (exclusive of the time required for obtaining a copy of the relevant entries therein), or, as the case may be, within thirty days of the date on which an amendment is finally made under section 79 and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the District Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(b) the amount including the assessed tax or duty, if any, in dispute in the appeal shall be deposited by the appellant every year on or before the due date in the office of the Board till the appeal is decided by the District Court.

97. *Finality of appellate orders.*—The order of a District Court confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final.

Provided that it shall be lawful for the District Court, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

#### Payment and recovery of taxes

98. *Time and manner of payment of taxes.*—Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such manner, as the Chief Executive Officer may, by public notice, direct.

99. *Public notice for taxes due.*—(1) When any tax has become due the Chief Executive Officer shall cause a separate bill and public notice to be issued as well as published in a local newspaper specifying the tax and the period for which it is due for payment.

(2) The tax shall become due for payment from the date of issue of public notice under sub-section (1) above.

(3) Any non-receipt of a Bill by a person shall not be a cause for non-payment of the tax notified under sub-section (1).

100. *Notice of demand*.—(1) If the amount of tax for which public notice has been issued or a bill has been presented is not paid within thirty days from the issue of public notice or presentation of the bill, as the case may be, the Chief Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

(2) For every notice of demand which the Chief Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding two hundred rupees as shall in each case be fixed by the Chief Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

101. *Recovery of tax*.—(1) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Chief Executive Officer, such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter:

Provided that the Chief Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter:

Provided further that the sale of any immovable property attached under this sub-section shall not be made save under the orders of the Board.

(2) Every warrant issued under this section shall be signed by the Chief Executive Officer.

102. *Interest payable on taxes due*.—(1) If a person on whom a notice of demand has been served under section 100, does not, within thirty days from the service of such notice, pay the sum demanded in the notice, he shall be liable to pay by way of interest, in addition to the sum and other charges due one per cent. of the sum due for each complete month from the date of expiry of the period of thirty days as aforesaid.

(2) The amount of interest shall be recoverable in the same manner as moneys recoverable by the Board under section 324.

Provided that—

(a) where no appeal has been preferred, the Chief Executive Officer with the previous sanction of the Board; and

(b) in any other case, the District Court hearing the appeal under section 93,

may remit the whole or any part of the interest payable in respect of any period.

103. *Distress*.—(1) It shall be lawful for any official of the Board to whom a warrant issued under section 101 is addressed to distrain, whereever it may be found in the cantonment, any movable property or standing timber, growing crops or grass belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemption, namely:—

(a) the following property shall not be distrained—

(i) the necessary wearing apparel and bedding of the defaulter or of his wife or of his children;

(ii) tools of artisans;

(iii) books of account; or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(b) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Chief Executive Officer, should not be have been distrained, it shall forthwith be returned.

(2) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in the form in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

104. *Disposal of distrained property*.—(1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chief Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(2) If the warrant is not in the meantime suspended by the Chief Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section (2) of section 103, be sold by public auction by order of the Chief Executive Officer.

(3) For every distraint made under this Chapter a fee of such amount, not exceeding two hundred rupees, as shall in each case be fixed by the Chief Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

105. *Attachment and sale of immovable property.*—(1) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that such property would be sold unless the amount of tax due with all costs of recovery is paid in the office of the Board within fifteen days from the date of attachment.

(2) An order under sub-section (1) shall be displayed at some place on or adjacent to such property by pasting the same conspicuously and by publishing the same in a newspaper having circulation in the area in which the property is situated or by any other means or mode as may be considered appropriate by the Chief Executive Officer.

(3) Any transfer of or charge on the property attached or any interest thereon made without the written permission of the Chief Executive Officer shall be void as against all claims of the Board enforceable under the attachment.

(4) Where the sum due to the Board with the cost incurred by the Board in the sale of the property, including publication of notice in newspaper and a sum equal to five per cent. of the purchase money for payment to the purchaser is paid by the defaulter, before the confirmation of the sale under sub-section (5), the attachment, if any, of the immovable property shall be deemed to have been removed.

(5) After the sale of the property by auction as aforesaid, it shall be confirmed in writing by the Chief Executive Officer who shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(6) The Central Government may make rules for—

(a) regulating the manner of execution of warrants for the attachment and sale of immovable property;

(b) charging of fees for the attachment and sale of immovable property, to be included in the cost of recovery of the tax due;

(c) summary determination of any claim made by any person other than the person liable for the payment of any tax, in respect of any property attached in execution of warrant under this section.

106. *Recovery from a person about to leave cantonment and refund of surplus sale proceeds, if any.*—(1) If the Chief Executive Officer has reason to believe that any person from whom any sum is due or is about to become due on account of any tax is about to move from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale of movable property or attachment and sale of immovable property in the manner herein before provided in this Chapter, and the warrant of such distress and sale or attachment and sale may be issued and executed without any delay.

(3) The surplus of the sale proceeds arising out of section 104, section 105 and this section, if any, shall immediately after the sale of the property, be credited to the cantonment fund, and the notice of such credit shall immediately be given to the person whose property has been sold, or to his legal representative and, if such money is claimed, within a period of one year from the date of notice, a refund thereof shall be made to the said person or his representative.

(4) Any surplus of the sale proceeds not claimed within one year as aforesaid shall be the property of the Board.

107. *Power to institute suit for recovery.*—Instead of proceeding against a defaulter by distress and sale of movable property or attachment and sale of immovable property as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any court of competent jurisdiction.

#### Special provisions relating to taxation, etc.

108. *Board to be a Municipality for taxation purposes.*—A Board shall be deemed to be a municipal committee for the purposes of taxation as per the Municipal Taxation Act, 1881 (11 of 1881).

109. *Payment to be made to a Board as service charges by Central Government or State Government.*—The Central or the State Government, as the case may be, shall pay to a Board annually service charges for providing collective municipal services or development work in a cantonment where the Central or the State Government properties are situated as worked out by the Board based on the guidelines issued in this behalf by the Central Government or the State Government.

110. *Power to make special provision for conservancy in certain cases.*—A Board may make special provisions for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands:

Provided that, in fixing the amount, proper regard shall be had to the probable cost to the Board of the services to be rendered.

111. *Exemption in case of buildings.*—(1) When in pursuance of section 110, a Board has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of conservancy or scavenging tax imposed in the cantonment.

(2) The following buildings and lands shall be exempt from any property tax other than tax imposed to cover the cost of specific services rendered by the Board, namely:—

(a) places set apart for public worship and either actually so used or used for no other purpose and rendering services free of cost without deriving any income whatsoever;

(b) buildings used for educational purposes, public libraries, play grounds and dharashalas which are open to the public and from which no income is derived;

(c) hospitals and dispensaries maintained wholly by charitable contributions;

(d) burning and burial grounds, not being the property of the Government or a Board, which are controlled under the provisions of this Act;

(e) buildings or lands vested in a Board; and

(f) any buildings or lands, or portion of such buildings or lands, which are the property of the Government.

112. *General Power of exemption.*—The Central Government may, by notification in the Official Gazette, exempt, either wholly or in part from the payment of any tax imposed under this Act, any person, or class of persons or any property or goods or class of property or goods.

113. *Exemption of poor persons.*—A Board may exempt, for a period not exceeding one year at a time from the payment of any tax, or any portion of a tax imposed under this Act, any person who in its opinion is by reason of poverty unable to pay the same.

114. *Composition.*—(1) The Board may, with the previous sanction of the General Commanding Officer-in-Chief, the Command, allow any person to compound for any tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recoverable as if it were a tax.

115. *Irrecoverable debts.*—The Board may write off any sum due on account of any tax or rate or of the costs of recovering any tax or rate if such sum is, in its opinion, irrecoverable:

Provided that, where the sum written off in favour of any one person exceeds two thousand and five hundred rupees, the sanction of the General Officer Commanding-in-Chief, the Command shall be first obtained.

116. *Obligation to disclose liability.*—(1) The Chief Executive Officer, may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining—

- (a) whether such inhabitant is liable to pay, or has correctly paid, any tax imposed under this Act;
- (b) at what amount he should be assessed; or
- (c) the annual value of the building or land which he occupies and the name and address of the owner or lessee thereof.

(2) If any person, when called upon under sub-section (1) to furnish information, neglects to furnish it within the period specified in this behalf by the Chief Executive Officer or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to five thousand rupees and shall also be liable to be assessed at such amount on account of tax as the Chief Executive Officer may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final.

117. *Immaterial error not to affect liability.*—No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason only of any mistake in the name of any person liable to pay such tax or fee, or in the description of any property or thing, or any mistake in the amount of the assessment, charge or demand, if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such mistake shall be entitled to recover such compensation for the same, as the Board may decide.

118. *Distress not to be invalid by reason of immaterial defect.*—No distress levied or attachment made under this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account only of any defect of form in the notice of demand, warrant of distress or attachment and sale or other proceeding relating thereto; nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover such compensation for the same, as the board may decide.

CHAPTER VI

CANTONMENT FUND AND PROPERTY

**Cantonment fund and cantonment development fund**

119. *Cantonment fund and cantonment development fund.*—(1) There shall be formed for every cantonment a cantonment fund and there shall be placed to the credit thereof the following sums, namely:—

(a) the balance if any, of the cantonment fund formed for the cantonment under the Cantonments Act, 1924(2 of 1924);

(b) all sums received by or on behalf of the Board.

(2) There shall also be formed for every cantonment, a cantonment development fund and there shall be placed to the credit, thereof the following sums, namely:—

(i) any sum received from the Central Government or the Government of any State by way of contributions, grants, subsidies or by any other way for the implementation of any specific scheme or for the execution of any specific project;

(ii) any sum received from any individual or association of individuals by way of gift or deposit; and

(iii) any sum raised or borrowed under section 121 for the execution of specific development projects.

120. *Custody of cantonment fund and cantonment development fund.*—(1) The cantonment fund and the cantonment development fund shall be kept in separate accounts which shall be maintained in State Bank of India or any of its subsidiary banks or any nationalised bank or any scheduled commercial bank having its branch either in the cantonment or in the municipal area adjoining the cantonment.

*Explanation.*—In this section,

(i) “nationalised bank” means corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980);

(ii) “State Bank of India” means the State Bank of India constituted under the State Bank of India Act, 1955 (23 of 1955);

(iii) “subsidiary bank” means a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959).

(2) The Chief Executive Officer may with the previous sanction of the President Cantonment Board may invest any portion of cantonment fund or cantonment development fund in securities of Central Government or in such securities, including fixed deposits in banks in the best interest of the Board and may dispose of such investments or vary them for others of a like nature.

(3) The income resulting from any fixed deposit or from any such securities as is referred to in sub-section (2) or from the proceeds of the sale of any such security shall be credited to the cantonment fund or, as the case may be, the cantonment development fund.

(4) Every action taken under sub-sections (2) and (3) may be subsequently brought to the next meeting of the Board.

121. *Power of Board to borrow money.*—A Board may from time to time by a resolution passed in this behalf borrow money from another Board, on mutually agreeable terms any sum of money which may be required for the schemes or projects covered under this Act.

### Property

122. *Property.*—Subject to any special reservation made by the Central Government all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a board shall vest in and belong to that Board, and shall be under its direction, management and control, that is to say,—

(a) all markets, slaughter-houses, manure and night-soil depots, and buildings of every description;

(b) all water-works for the supply, storage or distribution of water for public purposes and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto;

(c) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;

(d) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the Board from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places appointed by the Board for such purposes;

(e) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto;